

Remarks

Claims 1-27 and 29-30 are pending in the present application with claims 1 and 30 in independent form. Claim 28 was previously cancelled. No claims are currently amended, cancelled, or added as part of this Response. Reconsideration is respectfully requested.

Claims 1, 2, 4-8, 10-12, 22, and 30 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Claims 1, 4, and 8 stand rejected under 35 U.S.C. §102(b) as being anticipated or, in the alternative, under 35 U.S.C. §103(a) as obvious over French Patent No. FR2637548 (hereinafter D11 to be consistent with the Examiners nomenclature). Claims 1, 4, 8, and 22 stand rejected under 35 U.S.C. §102(b) as being anticipated or, in the alternative, under 35 U.S.C. §103(a) as obvious over European Patent No. EP0458705 (hereinafter D10). Claims 1, 4, and 8 stand rejected under 35 U.S.C. §102(b) as being anticipated or, in the alternative, under 35 U.S.C. §103(a) as obvious over French Patent No. FR2735426 (hereinafter D3). Claims 1, 4, and 8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over German Patent No. 10042683 (hereinafter D5) in view of German Patent No. DE19626441 (hereinafter D7) or European Patent No. EP0357801. Claim 2 stands rejected under 35 U.S.C. §103(a) as being unpatentable over any of the prior rejections applied to claim 1 in further view of D7, D11, or D12. Claim 5 stands rejected under 35 U.S.C. §103(a) as being unpatentable over any of the prior rejections applied to claim 1 in further view of D1, D2, D4, D5, D6, or D11. Claim 6 stands rejected under 35 U.S.C. §103(a) as being unpatentable over any of the prior rejections applied to claim 1 in further view of D3 and D12. Claim 7 stands rejected under 35 U.S.C. §103(a) as being unpatentable over any of the prior rejections applied to claim 1 in further view of D9. Claims 10-12 stands rejected under 35 U.S.C. §103(a) as being unpatentable over any of the prior rejections applied to claim 1 in further view of D8, D6, or Japanese Patent No. 06-183248 (hereinafter JP '248. Claims 22 stands rejected under 35 U.S.C. §103(a) as being unpatentable over any of the prior rejections applied to claim 1 in further view of D10. Claim 30 stands rejected under 35 U.S.C. §103(a)

as being unpatentable over the combined teachings of Japanese Patent Nos. JP 2001-180251 (hereinafter JP ‘251) and 2000-062438 (hereinafter JP ‘438).

Opposition Proceedings in Europe

With reference to the Examiner’s note at the top of page 2 of the present Office Action, it is noted that no filings or decisions have been made in the on-going Opposition Proceedings in Europe since the Applicant’s last Response. Since the Examiner references the Opposition Proceedings in several of the rejections, the Applicant will hereinafter refer to the Opposition against European Patent No. 1601543 by Behr dated February 18, 2008 as the “Opposition” and will refer to the Opposition Response by Valeo Systemes Thermiques dated September 17, 2008 as the “Opposition Response.” Both the Opposition and the Opposition Response were previously cited in IDS’s submitted for the present application.

Rejection of Independent Claims 1 and 30 under §112, Second Paragraph

The Examiner rejects claims 1 and 30 under §112, second paragraph based on the phrase “grouped substantially at the same horizontal level.” Specifically, the Examiner notes that at least parts of the ventilation module, the heating module, and the distribution module diverge from the common horizontal level.

Under §112, second paragraph, the claims must particularly point out and distinctly define the metes and bounds of the subject matter that will be protected by the patent grant. This requirement does not depend on the views of an applicant or any particular individual, but rather depends on whether the scope of the claims is clear to a hypothetical person possessing the ordinary level of skill in the pertinent art. *See MPEP 2171.*

As discussed in the present application, in particular in the paragraphs beginning at page 9, line 24 and page 10, line 17, the concept of installation on the same horizontal level means that the design of the ventilation module, the heating module, and the distribution

module defines a device that is installed essentially in the transverse direction (Y axis) of the vehicle. Through this arrangement, the modular design of the device of the claims 1 and 30, with modules situated substantially on the same horizontal level, facilitates integration thereof in a motor vehicle with no console.

In light of the discussion above and, in addition, referring to the figures of the present application, in particular Figures 1, 3, 8, 11, 13, 16, and 19 and the corresponding parts of the description, a person skilled in the art immediately understands what is meant by the concept of "grouped substantially in the same horizontal level". As such, the Applicant respectfully asserts that independent claims 1 and 30 are definite according to §112, second paragraph.

Rejection of Independent Claim 1 under §102(b)/§103(a) over D11

With reference to the Opposition, the Examiner rejects independent claim 1 as being anticipated by D11 or, in the alternative, obvious over D11. The Applicant respectfully traverses this rejection and respectfully asserts that independent claim 1 is novel and nonobvious over D11.

As stated in the Opposition Response, the interpretation of D11 in the Opposition is improper. Specifically, D11 provides no indication with regard to the presence of a thermal module, a distribution module, or a ventilation module as claimed in independent claim 1.

In particular, independent claim 1 claims a "distribution module (16) having a casing (52) with air outlets (54, 56, 58)" and "distribution means disposed within said casing (52)." D11 fails to make such a teaching. In contrast, D11 comprises ventilation vents (18, 26), footwarming vents (24) and defrosting vents (28) and associated flaps on various faces of the main housing, i.e., along the features that the Examiner considers to be the thermal module and the ventilation module instead of the distribution module. For this reason, the Applicant

respectfully asserts that D11 fails to teach, or even suggest, a “distribution module (16) having a casing (52) with air outlets (54, 56, 58)” and “distribution means disposed within said casing (52)” as claimed in claim 1.

Moreover, D11 fails to teach, or even suggest, a “ventilation module (14) arranged to produce the air flow” as claimed in claim 1. Figure 1 of D11 does not show a fan. As stated in the description of D11, Figure 1 of D11 is a view in section of an installation in the ventilation position. Consequently the fan can be situated in the planes parallel to the cutting plane of Figure 1 and thus is not shown in Figure 1. As such, there is no teaching in D11 that the fan is in the form of a separate module.

In contrast, according to D11, the installation comprises a conduit (10) for supplying fresh air coming from outside the passenger compartment. It is therefore possible to state that the fan is mounted in the supply conduit (10) in order to create an air flow able to pass through the installation. The fan and the supply conduit (10) therefore form an integral part of the housing of the air conditioning installation according to D11. Accordingly, the Applicant respectfully asserts that D11 fails to teach, or even suggest, a “ventilation module (14) arranged to produce the air flow” as claimed in claim 1.

Finally, D11 makes absolutely no teaching of any arrangement of the various components in substantially in the same horizontal level. In fact, D11 makes absolutely no teaching, or even suggestion, of a ventilation module, a heating module, and a distribution module “grouped substantially at the same horizontal level” as claimed in claim 1.

Since D11 fails to teach, or even suggest, each and every element of claim 1, the Applicant respectfully asserts that independent claim 1 is novel and nonobvious over D11.

Rejection of Independent Claim 1 under §102(b)/§103(a) over D10

With reference to the Opposition, the Examiner rejects independent claim 1 as being anticipated by D10 or, in the alternative, obvious over D10. The Applicant respectfully

traverses this rejection and respectfully asserts that independent claim 1 is novel and nonobvious over D10.

As stated in the Opposition Response, D10 fails to teach a heating *module* and a distribution *module* as claimed in independent claim 1. In contrast, the device according to D10 comprises a heating housing (15) and a distribution housing (17) *integrally formed with each other*. As set forth in the Opposition Response and the Amendment to the present application dated June 8, 2009, each *module* of claim 1 is self contained and performs its own function independently of the other modules. As such, D10 fails to teach a distribution *module* having an inlet connected to a side air outlet of the thermal *module*.

In addition, D10 fails to teach, or even suggest, a “distribution module comprising distribution means *disposed within said casing (52)* for distributing the air flow between air outlets (54, 56, 58)” (emphasis added) as claimed in independent claim 1. In contrast, in D10 the defrosting (23), ventilation (21), lateral ventilation (35) and heating (29) conduits are disposed outside of the distribution case 17. Further, these conduits (21, 23, 29, 35) are not “configured to selectively open and close the air outlets (54, 56, 58) for leading the air flow to selected areas of the passenger compartment” as claimed in claim 1.

Since D10 fails to teach, or even suggest, each and every element of claim 1, the Applicant respectfully asserts that independent claim 1 is novel and nonobvious over D10.

Rejection of Independent Claim 1 under §102(b)/§103(a) over D3

With reference to the Opposition, the Examiner rejects independent claim 1 as being anticipated by D3 or, in the alternative, obvious over D3. The Applicant respectfully traverses this rejection and respectfully asserts that independent claim 1 is novel and nonobvious over D3.

As stated in the Opposition Response, the teachings provided by D3 are not in accordance with those presented in the Opposition. Specifically, the Opposition makes

erroneous assessments with regard to the nature of the elements integrated in the device of D3. The Opposition attempts to counterbalance the absence of relevance of document D3 by attributing to the components disclosed in D3 functions different from those that are allocated to them.

For example, the Opposition considers, amongst other things, that the heating and/or air conditioning device for the passenger compartment of a motor vehicle according to D3 also comprises defrosting, ventilation and foot-warming outlets arranged in a distribution module. The Opposition identifies this distribution module by reference 12 of D3. However, as stated in the description of D3, in particular on page 7, line 30, the reference 12 refers to a heating element. Thus D3 does not teach a distribution module within the meaning of claim 1.

In addition, the Opposition states that the element referenced 12 in D3 also comprises distribution means and associates distribution means with the flap referenced 108 in D3. However, as stated in the description of D3, the flap referenced 108 is a mixing flap able to control the air flow that enters through the radiator so as to obtain a mixed air flow of controlled temperature. As a result D3 does not provide information with regard to the arrangement of distribution means such as those claimed in claim 1.

Simply stated, even under the extremely stretched interpretation of D3 made in the Opposition, D3 simply does not teach, or even suggest, each and every element of independent claim 1. Since D3 fails to teach, or even suggest, each and every element of claim 1, the Applicant respectfully asserts that independent claim 1 is novel and nonobvious over D3.

Rejection of Independent Claim 1 under §103(a) over D5 in view of D7 or D12

With reference to the Opposition, the Examiner rejects independent claim 1 as being obvious over D5 in view of D7 or D12. The Applicant respectfully traverses this rejection

and respectfully asserts that independent claim 1 is nonobvious over D5 in view of D7 or D12.

As stated in the Opposition Response, the Opposition identifies D5 to be the closest prior art for reasoning aimed at demonstrating the absence of inventive step of the present invention, which the Examiner now applies to obviousness under the U.S. standard. The arguments in the Opposition Response for inventive step are also relevant to the Examiner's present obviousness rejection.

The Applicant respectfully asserts that D5 fails to teach, or even suggest, a ventilation *module*, a heating *module*, or a distribution *module* as claimed in independent claim 1. As stated above and as stated in the Opposition Response, the device of claim 1 includes **modules independent** of one another **independently fulfilling the various functions particular to** a ventilation, heating and/or air conditioning installation for a passenger compartment. In contrast, D5 discloses **a unitary single-piece housing** having various possible configurations in which all the components of an air conditioning installation are contained. Therefore, D5 does not disclose *modules* as claimed in claim 1.

Notably, as set forth on page 2, line 26 through page 4, line 30 of the present application, the modular configuration claimed in claim 1 makes the device of claim 1 capable of adapting to various vehicle configurations with no central console.

Further, D7 and D12 each fail to teach the *modules* claimed in claim 1. Thus it appears pointless to combine the teachings of D07 or D12 with the device according to D05 in an attempt to reach subject matter of claim 1. In sum, the combination of D5 with D7 or D12 fails to teach, or even suggest, the *modules* of claim 1. Since the combination of D5 with D7 or D12 fails to teach, or even suggest, each and every element of independent claim 1, the Applicant respectfully asserts that independent claim 1 is nonobvious over the combination of D5 with D7 or D12.

Rejection of Independent Claim 30 over the combined teachings of JP ‘251 and JP ‘438

The Applicants respectfully traverse the rejection of independent claim 30 as being obvious over JP ‘251 and JP ‘438 and respectfully assert that independent claim 30 is nonobvious over JP ‘251 and JP ‘438. First, the Examiner asserts that JP ‘251 discloses a blower unit 31, an air conditioning unit 32, and a duct member 33 arranged at substantially the same horizontal level. The Applicant respectfully disagrees.

In contrast, the duct member 33 is on a completely different horizontal level than the blower unit 31 and the air conditioning unit 32. The duct member 33 is disposed **entirely above** the blower unit and the air conditioning unit 32. In fact, the duct member 33 is completely spaced above the blower unit 31 as clearly shown in Figure 1. As such, the duct member 33 is not “grouped substantially at the same horizontal level” as the blower unit 31 and the air conditioning unit 32, as claimed in independent claim 30. Further, JP ‘438 fails to teach, or even suggest, the claimed modules grouped substantially at the same horizontal level. Since the combination of JP ‘251 and JP ‘438 fails to teach, or even suggest, each and every element of independent claim 30, the Applicant respectfully asserts that independent claim 30 is nonobvious over the combination of JP ‘251 and JP ‘438.

Further, JP ‘251 fails to teach, or even suggest, a “distribution module (16) arranged to be placed on a *side* of said heating module” (emphasis added) as claimed independent claim 30. In contrast, as set forth above, the duct member 33 is disposed above the air conditioning unit 32 as clearly shown in Figure 1. Further, JP ‘438 fails to teach, or even suggest, a distribution module arranged to be placed on a side of a heating module. Since the combination of JP ‘251 and JP ‘438 fails to teach, or even suggest, each and every element of independent claim 30, the Applicant respectfully asserts that independent claim 30 is nonobvious over the combination of JP ‘251 and JP ‘438.

In view of the foregoing, it is respectfully submitted that independent claims 1 and 30, and the claims that depend therefrom, are both novel and nonobvious such that these claims are in condition for allowance, which allowance is respectfully requested. If any issue regarding the allowability of any of the pending claims could be readily resolved, or if other action could be taken to further advance prosecution, such as an Examiner's Amendment, it is respectfully requested that the Examiner telephone the undersigned in this regard.

Although no fees are believed to be due in addition to those submitted herewith, the Commissioner is authorized to charge our Deposit Account No. 08-2789 in the name of Howard & Howard Attorneys PLLC for any fees or credit the account for any overpayment for this matter.

Respectfully submitted,

HOWARD & HOWARD ATTORNEYS PLLC

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